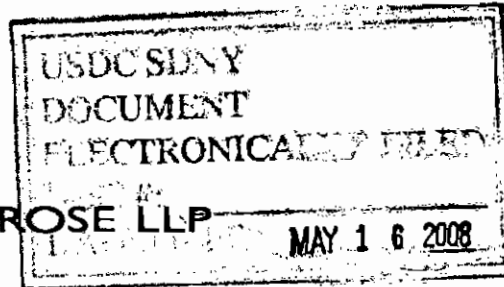


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May 15, 2008

BY FAX (212.805.0426)

Honorable Laura Taylor Swain
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 755
New York, New York 10007

MEMO ENDORSED

Re: Michael G. Porto v. Stephen Adly Guirgis, et al., No. 08-CV-01228 (LTS)(GWG)

Dear Judge Swain:

We are counsel for all defendants in the above-referenced matter. Defendants' and plaintiff's counsel have agreed upon all requests in this letter, and plaintiff's counsel is copied below.

Per Lisa Ng's May 5 letter, the initial conference in this matter was rescheduled for May 23. We have consulted with plaintiff's counsel and explained that rather than answer the complaint, which alleges copyright infringement and related claims, defendants will be moving to dismiss the complaint in full based principally on lack of substantial similarity as a matter of law. (Plaintiff's work and the allegedly infringing work are both annexed to the complaint, and the Court is therefore in a position to determine this issue without discovery, as was done in such cases as *Polshy v. St. Martin's Press, Inc.*, No. 00-7501, 2001 U.S. App. LEXIS 8852, at **3 (2d Cir. May 8, 2001) ("discovery was not necessary for a comparison of the works in order to assess whether, as to the protectible elements, they were substantially similar"), *aff'g* No. 97 Civ. 690 (MBM), 1999 U.S. Dist. LEXIS 5416 (S.D.N.Y. April 15, 1999) (defendants' motion granted), and *Mallery v. NBC Universal Inc.*, No. 07 Civ. 2250 (DLC), 2007 U.S. Dist. LEXIS 88960 (S.D.N.Y. Dec. 3, 2007) (defendants' motion granted)). Because defendants waived formal service of the complaint, defendants' deadline to answer or move is sixty days after plaintiff's counsel's May 1 waiver request.

Plaintiff's and defendants' counsel jointly request that in order to conserve both the parties' and the Court's resources, the initial conference be adjourned until after the disposition of defendants' dispositive motion (this is the first adjournment or extension request in this matter; this request encompasses the conference-related deadlines enumerated in the Court's February 19, 2008 initial conference order). Should defendants' motion be granted, there would be no need for the initial conference. Should the Court seek to have a control date for a conference if necessary, please note that I will be traveling and out of the country on May 23 and unavailable for the initial conference.

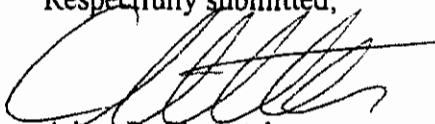
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Page 2

and respectfully request that the conference be rescheduled until September, so that the parties can devote their resources in the meantime to the preparation of defendants' motion and plaintiff's opposition.

In connection with the forthcoming motion, plaintiff's and defendants' counsel also jointly seek the Court's permission to exceed the page limits specified in the Court's individual practices. Specifically, the parties seek permission to file supportive and opposition memoranda of law that are limited to 40 pages, and for defendants to file a reply memorandum of law limited to 15 pages. Plaintiff's and defendants' works at issue are a lengthy novel and play, and defendants' forthcoming motion will be based on a description of these works and an identification of the works' many differences and absence of relevant similarities. In order to be meaningful and helpful to the Court this description and identification require the additional pages sought here; however, it is expected that these additional pages will ultimately be helpful and time-saving to the Court as the motion is decided.

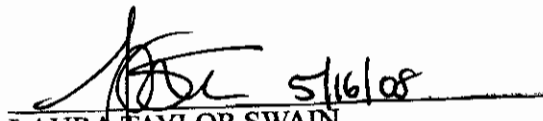
Respectfully submitted,


Adam D. Siegartel

cc: Darren M. Geliebter, Esq., The Dorf Law Firm LLP (by fax and email)
Charles S. Sims, Esq., Proskauer Rose LLP (by hand)

The requests are granted. The initial conference is adjourned to a control date of November 14, 2008, at 10:00 AM. The page limit extensions are granted.

SO ORDERED.


LAURA TAYLOR SWAIN
UNITED STATES DISTRICT JUDGE